

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1538 OF 2004

Kishor @ Lala Chetahmal Lalwani ...Petitioner

Versus

The State of Maharashtra & Ors. ...Respondents

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Mrs.Smita Rajendra Kadu for Petitioner.

Mr.A.S.Gadkari, A.P.P. for Respondents.

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CORAM: A.M.KHANWILKAR, J.

OCTOBER 15, 2004.

P.C.

1. Heard Counsel for the parties. Perused the record.

2. I find no reason to interfere in exercise of writ jurisdiction in the fact situation of the present case.

3. While rejecting the application for furlough leave made by the Petitioner, the

Authority has taken into account, recent recommendations made from appropriate quarters. The material which was gathered during the enquiry revealed that if Petitioner was to be released, he may be a threat to panch and witnesses of the criminal case, who had deposed against him. That reason qualifies the requirement of Rule 4(4) of the The Prisons (Bombay Furlough & Parole) Rules, 1959.

4. It is not open for this Court to impose its views on the subjective satisfaction reached by the Authority on the basis of material gathered during the enquiry while considering the Application preferred by the Petitioner. There are other good reasons mentioned in the reply affidavit filed, which are supported by the recommendations received by the appropriate authority produced before me.

5. To get over this position, learned Counsel contends that out of six grounds, most of the grounds were non-existing grounds. However, that statement does not commend to me. Indeed, the

Petitioner may be right in contending that merely because his earlier application was rejected because of adverse report, the same cannot be the basis to reject his subsequent application, which ought to have been considered on its own merits. However, that is not the only reason on the basis of which the present Application has been rejected.

6. For rejecting the present application, fresh report was called for, and the report received clearly spell out apprehension if the Petitioner was to be released. Taking overall view of the matter, no interference is warranted. Dismissed.

A.M.KHANWILKAR, J.